

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CM-14200-CII-2021 in/and

TA No.36 of 2020 (O&M)

DATE OF DECISION: 17.12.2021

Shivani

.....Petitioner

versus

Gaurav

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Hari Om Sharma, Advocate for the petitioner

..

ALKA SARIN, J. (Oral):

Heard in physical mode.

CM-14200-CII-2021:

Notice of the application.

Mr. Lajpat Sharma, Advocate, who is present in Court, accepts notice on behalf of non-applicant/respondent and states that he has no objection if the present application seeking preponement of the main case is allowed.

With the consent of the learned counsel, the main case is taken on board for final disposal today itself.

CM disposed off.

TA No.36 of 2020:

Heard in physical mode.

The present petition has been filed under Section 24 of the Code of Civil Procedure, 1908 seeking transfer of the petition i.e. HMA No.556 of 2019 dated 16.07.2019 titled as "*Gaurav Vs. Shivani*" filed by the

respondent-husband under Section 9 of the Hindu Marriage Act, 1955 (in short the 'HM Act') for restitution of conjugal rights pending in the Court of ADJ/Principal Judge, Family Court, Panipat to the Court of competent jurisdiction at Kaithal.

Learned counsel for the petitioner would contend that the petitioner was married to the respondent on 28.02.2017. Matrimonial disputes arose between the parties some time after the marriage and on 02.06.2019 the respondent is stated to have deserted the petitioner after causing her mental and physical agony. It is further contended that the petitioner lodged FIR No.141 dated 01.09.2019 at Women Police Station and trial is pending before the Court at Kaithal. The petitioner is also stated to have filed a divorce petition under Section 13 of the HM Act which is pending in the Court of Principal Judge, Family Court, Kaithal. It is further contended that the petitioner has no independent source of income and the petition filed by her under Section 125 CrPC for grant of maintenance is also pending in the Family Court at Kaithal.

The learned counsel for the petitioner has contended that the petitioner, in order to defend the case at Panipat, would have to travel a distance of approximately 200 kms (up & down) and it is not feasible for her, financially or otherwise, to travel to Panipat on each and every date of hearing to defend her case.

Notice of motion in this case was issued on 14.01.2020. Mr. Lajpat Sharma, Advocate has put in appearance on behalf of the respondent and has filed his reply in Court, which is taken on record.

Learned counsel for the respondent has vehemently opposed the present transfer petition. He, however, is unable to deny the factum of an FIR and two petitions having been filed by the petitioner under Section 13 of the HM Act and under Section 125 CrPC being pending at Kaithal as also the distance that the petitioner would have to travel on each and every date of hearing in order to defend the proceedings initiated by the respondent at Panipat which is 200 kms (up and down).

Heard learned counsel for the parties.

In the present case, the petitioner is residing at Village Dhand, District Kaithal along with her old-aged parents and has no independent source of income. She would have to travel a distance of approximately 200 kms (to and fro) in order to attend the proceedings at Panipat. Additionally, three cases initiated by the petitioner – a petition under Section 13 of the HM Act, another petition under Section 125 CrPC and an FIR case – are already pending at Kaithal.

In view of the above, I deem this to be a fit case for transfer of the petition i.e. HMA No.556/2019 dated 16.07.2019 titled as “*Gaurav Vs. Shivani*” filed by the respondent-husband under Section 9 of the HM Act pending in the Court of ADJ/Principal Judge, Family Court, Panipat to the Court of competent jurisdiction at Kaithal. Ordered accordingly.

The records of the case shall be sent by the concerned Court to the Court of the learned District Judge, Kaithal and the parties shall appear there on 24.02.2022 (date fixed in HMA/556/2019) at 10.00 a.m.

The present petition is disposed off in the above terms.

**(ALKA SARIN)
JUDGE**

17.12.2021
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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